

REMARKS

In the Official Action of September 14, 2005, claims 1-4, 6 and 10-13 have been rejected under 35 U.S.C. 102(a) as being anticipated by Pargass et al. (U.S. Patent No. 6,572,596). This rejection is respectfully traversed.

The Examiner states that Pargass et al. discloses an absorbent article comprising a main body having a first main body waist portion, a second main body waist portion, and a central main body waist portion disposed between the first and second main body waist portions. The Examiner also states that Pargass et al. describes a pair of side panels, with each side panel connecting the first main body waist portion to the second main body waist portion, the first side portion being attached to the second side portion by side seams **24**. Finally, the Examiner states that Pargass et al. describes a pair of adjustment tabs **26** attached to a side portion of an associated side panel. Applicant respectfully disagrees with this interpretation of Pargass et al.

In order for a claim to be anticipated by a reference, that reference must disclose each and every element of the claimed invention. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."); see also *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989) ("The identical invention must be shown in as complete detail as is contained in the . . . claim.").

In addition to the foregoing, three criteria must be met to establish a *prima facie* case of obviousness: (1) there must be some suggestion or motivation to modify the reference or to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the prior art references must teach or suggest all the claim limitations. (MPEP § 2143).

Applicant submits that the invention, as presently claimed, is neither anticipated by, nor obvious over, the absorbent garment described in Pargass et al. for at least the following reasons.

Pargass et al. utilizes elastic side belts **18** located on each side of the absorbent garment to adjust the fit of the garment for the benefit of the wearer. These elastic belts

are permanently affixed (bonded) to the main body of the garment at side seams 24. Adjustment strips 26 are attached to the elastic side belt for assisting in the adjustment of the comfort level of the garment. Thus, the garment of Pargass et al. cannot be opened to form a planar configuration as is the case with the garment of the present invention.

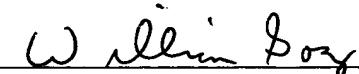
In contrast to Pargass et al., the present invention does not include an elastic belt permanently affixed to corresponding main body portions of the garment at essentially four attachment points (side seams). The side seams of Pargass et al. are part of the main garment body, and not part of separate elements (side panels) as required in the claims of the present invention. There are no side panels in the Pargass et al. garment.

Moreover, in the present invention the waist portions of the garment are removably or releasably attached to each other at the side seams formed in the side panels. This is completely different from Pargass et al. wherein the waist portions of the garment are attached to each other by a pair of elastic belts which are permanently affixed or boned to side seams in the main body of the diaper. The claims of this invention have now been amended to highlight these important distinctions.

In view of the aforementioned facts and reasons, the present application is now believed to overcome the remaining rejections in this application, and to be in proper condition for allowance. Accordingly, reconsideration and withdrawal of the rejection, and allowance of the remaining claims, are respectfully solicited. The Examiner is invited to contact the undersigned at the telephone number listed below to discuss any matter pertaining to the status of this application.

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Respectfully submitted,



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